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PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) RA-5621

I hereby certify that this correspondence is being faxed to the USPTO central fax number (571) 273-8300 (37 CFR 1.8(a) on ___June 6, 2007___ Signature___Beth L McMahon___ Typed or printed name ___Beth L. McMahon___	Application Number 10/642,892	Filed August 18, 2003
	First Named Inventor Calvesio, Raymond V.	
	Art Unit 3629	Examiner Jamisue A. Plucinski

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
   Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.   41,987
Registration number _____

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 : _____

Signature: _Beth L McMahon_

Typed or printed name: Beth L. McMahon

Telephone number: (651) 635-7893

Date: June 6, 2007

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of __3__ forms are submitted.   Pre-Appeal Brief Request for Review, Reasons for Request, Notice of Appeal,

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Group Art Unit: 3629
Examiner: Jamisue A. Plucinski

Customer Assgn. No.:	027516	June 6, 2007
Serial No.:	10/642,892	
Filed:	August 18, 2003	
In re Application of:	Calvesio et al.	
Title:	Transportation Security System and Method that Supports International Travel	
Docket No.:	RA-5621	

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pre-Appeal Brief Request for Review – Reasons for Request

This is in response to a Final Rejection dated February 7, 2007 ("Final Rejection") which finally rejects all pending Claims 1-32.

Summary of Applicants' Invention

Applicants' invention provides an automated mechanism for crossing an international border on the day of travel without aid of human intervention. According to prior art approaches, when a traveler seeks to cross an international border, the traveler's identity must be verified. In addition, the traveler's eligibility to cross the border must be established. This requires a manual step of reviewing a person's travel documents (e.g., passport, visa, etc.) to verify that the document carrier is the person described by those papers, and that the documents are valid. A determination must also be made as to whether the traveler meets all security, health, immigration, and other requirements established by the destination country such that the border crossing will be allowed. This manual process is time-consuming, and may create bottlenecks in transportation terminals. However, the process cannot be entirely automated without sacrificing border security. To address this situation, Applicants' mechanism provides a way to perform the manual checks described above prior to the day of travel. Such checks may include verifying a traveler's identification and eligibility to make one or more border crossings. According to this

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approach, prior to the date of departure for an upcoming trip, the traveler visits an enrollment office where an enrollment official manually verifies identification of the traveler and, if necessary, performs an interview. After the traveler's identity has been verified, checks are initiated to determine whether the traveler is eligible to cross the international border(s) included in the trip itinerary. This will involve determining whether all travel requirements of the destination country (e.g., visa, health, immigration, and security requirements) have been fulfilled.

If the traveler has fulfilled all requirements for the upcoming border crossing(s), unique identification indicia (e.g., biometric data) are collected from the user. This collected information is recorded in the system database along with other user information (e.g., passport photo). The traveler is then authorized to utilize a completely automated check-in process on the day of travel. According to this process, the traveler employs an automated kiosk that collects the identification indicia (e.g., biometric data) from the traveler, and compares this information against that previously stored by the enrollment officials. If a match occurs, the traveler is allowed to by-pass the manual screening process generally required to complete an international border crossing.

Summary of Sehr

All Claims 1-32 are rejected under 35 USC §102(b) based on U.S. Pat. No. 6,085,967 to Sehr ("Sehr"). Sehr disclosed a multi-application passenger card such as a smart card that stores travel information that may include an electronic ticket, use rights for a transportation carrier, considerations for travel-related services, security codes, and so on. In one embodiment, Sehr contemplates that passport authorities will prepare electronic copies of passport documents for downloading into the card. (Sehr column 43 lines 48-52.) During international travel, this type of passport information may be verified manually by a travel representative as follows:

> "Because this is an international travel, the passenger's passport will be verified as well. The passport will be retrieved from the passenger card and viewed on the control module's display screen. The representative can verify the displayed information as is, or might request additional information to further verify the lawful bearer; for example, the signature of the passenger to be entered via a signature pad." (Sehr column 34 lines 23-28, emphasis added.)

As described by this passage, during international travel, the Sehr system requires that a travel representative manually performs identification verification according to conventional approaches.

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Arguments

Applicants' representative Claim 1 includes the steps of:

        a.) prior to the time of travel, allowing an authorized enrollment representative to employ the data processing system to enroll a traveler to utilize an automated check-in process after the authorized enrollment representative verifies that the traveler is eligible to make an international border crossing; and

        b.)   at the time of travel, utilizing the automated check-in process to enable crossing of the international border, which may then be completed without aid of human intervention.

Claim 1 step b.) is considered first. This step describes an automated check-in process used at the time of travel to enable crossing of the international border without aid of human intervention. The Examiner cites the following passage of Sehr as teaching this step:

> "[W]hen presented for international travel, the card can provide the cardholder's certified picture that was previously stored in the card or imprinted onto the card package. The stations's control module can capture the physical appearance of the passenger presenting the card and compare it with the picture stored in the card per se. If there is a match, the passenger's identity is established; otherwise, a message conveyed that the comparison was not successful. In addition, authorized personnel can also verify the picture imprinted onto the card, as well as the passenger's demographics information stored in the card; a successful verification indicates that cardholders are who they say they are. (Sehr column 23 lines 21-35, as cited in the Final Rejection page 3 line 7.)

This passage states that when the card is presented for international travel, a control module may be used to compare a picture stored on the card with the appearance of the passenger. *In addition,* authorized personnel compare the passenger's appearance with the picture and demographic information on the card to verify the passenger's identity. Thus, contrary to the Examiner's assertion, this passage does not stand for the proposition that manual checks are eliminated, only that they are supplemented by automated means.

        The other passages in Sehr that concern international travel reiterate that human intervention is required. For instance, the following passage describes how a travel representative verifies information for purposes of international travel:

> "Because this is an international travel, the passenger's passport will be verified as well. The passport will be retrieved from the passenger card and viewed on the control module's display screen. The representative can verify the displayed information as is, or might request additional information to further verify the lawful bearer; for example, the signature of the passenger to be entered via a signature pad." (Sehr column 34 lines 23-28, emphasis added.)

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Another passage describing international travel is as follows:

> "After landing at the international airport, the passenger proceeds to the immigration/customs booths for clearance. The passenger card will be coupled to the control module…and in response thereto, the control module will verify the passport and customs form that are stored in the card. …For example, the control module can retrieve and display the form onto the card template and allow the customs agent to evaluate the inputted data. The agent can also communicate with remote databases to determine if the form-based information justifies any follow-up or further investigation. (Sehr column 41 lines 36-63, emphasis added.)

Thus, these passages reiterate the need for human intervention when information is being verified for international travel.

As noted by the Examiner, some passages of Sehr do describe an automated check-in and boarding process. However, these passages do not relate to international travel. For instance, Sehr column 35 lines 57-62, which are cited by the Examiner (Final Rejection page 3 l. 7) in reference to Claim 1 step b.), describe an automated process of using the passenger card to check in, tag luggage, and issue boarding passes. This passage is not related in any way to international travel, border crossings, or passport handling. Nothing in Sehr teaches that the passenger card can be used to facilitate an automated check-in process for crossing an international border that eliminates human intervention. For at least this reason, the rejection of Claim 1 under 35 USC §102(b) is improper.

Next, Claim 1 step a.) is considered. In regards to this step, the Examiner asserts that Sehr teaches loading passport information onto the passenger card. Since that passport information was previously authorized by a passport official, the Examiner asserts that this teaches the use of an enrollment representative, as recited in Applicants' step a.) (Final Rejection, page 2, paragraph 5.) Applicants disagree with this assertion for the following reasons:

When the U.S. State Department issues a passport, that agency in no way intends to confer on anyone the right to employ an automated check-in process for use in crossing an international border without human intervention. The State Department is issuing the passport with the expectation that the document will be inspected by authorized border officials at the time of the international border crossing.

In addition to the foregoing, Claim 1 step a.) describes that the enrollment process requires the enrollment representative to verify that the traveler is eligible to make an international border crossing before enrolling the traveler to use the automated check-in process. Depending on the particular international border that is to be crossed by that traveler, this may involve determining whether the appropriate visas have been obtained for the destination country, whether the specific health, security, and/or immigration requirements of that destination country

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have been met by the traveler, and so on. The requirements that must be satisfied to gain eligibility are specific to the destination country. (See Applicants' Specification page 5 lines 15-21, page 22 lines 7-20.)

In contrast to the enrollment process described by Applicants' Claim 1, passport agencies such as the U.S. State Department do not perform a verification process that determines whether the traveler is eligible to make any particular international border crossing. The State Department does not need to perform this type of verification because an <u>issued passport</u> is only intended to <u>verify the identity and nationality of the bearer</u>. A passport is not intended to verify that the traveler is eligible to cross any particular international border. That is why an applicant for passport is not required to supply information concerning a particular travel itinerary, and in fact, may not even have such an itinerary at the time the application for passport is made. As such, the issuance of the passport by a passport authority cannot possibly teach Applicants' step a.), which involves verifying that a traveler is eligible to make a particular international border crossing.

Finally, as discussed above in reference to step b.), Sehr does not teach any sort of an automated check-in process for use in crossing an international border without human intervention. Sehr instead requires manual intervention if an international border is crossed. Therefore, Sehr cannot possibly teach Applicants' step a.), which involves enrolling a traveler to use that automated check-in process.

For at least the foregoing reasons, Sehr does not teach each and every aspect of Applicants' Claim 1. Therefore, the rejection of Claim 1 under 35 USC §102(b) is improper.

Independent Claims 23 and 31 include aspects that are similar to those discussed in regards to Claim 1. These Claims are allowable over Sehr for reasons similar to those set forth above. Dependent Claims 2-22, 24-30, and 32 each depends from one of the independent Claims. These Claims are likewise allowable over Sehr for at least the reasons set forth above.

To summarize, the Examiner has failed to set forth a prima facie case of anticipation regarding Claims 1-32, and this rejection is very clearly improper. Therefore, relief is requested.

Respectfully submitted,

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